

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Roy Ross Sharpe,)	C/A No. 2:18-cv-02965-DCC
)	
Plaintiff,)	
)	
vs.)	
)	
Ronald Hollister, John Vandemosten, Marshall))	ORDER
Stowers,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. On January 1, 2019, Defendants filed a Motion to Dismiss. ECF No. 17. Plaintiff filed a Response in Opposition, and Defendants filed a Reply. ECF Nos. 21, 22. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report"). On February 25, 2019, the Magistrate Judge issued a Report recommending that the Motion be granted without prejudice and that Plaintiff be allowed to amend the Complaint to name the appropriate parties. ECF No. 23. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. No party has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. The Motion to Dismiss is **GRANTED**. Plaintiff is directed to file an Amended Complaint within 21 days plus three days for mail time. Plaintiff is reminded that an amended complaint replaces the original complaint and should be complete in itself. See *Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (“As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.”) (citation and internal quotation marks omitted); see also 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1476 (3d ed. 2017) (“A pleading that has been amended under Rule

15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case"). If Plaintiff fails to file an amended complaint, this action will be subject to dismissal for failure to prosecute and failure to comply with an Order of this Court.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 13, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.